

REMARKS

Claims 1-13 and 18-19 are pending in the present application. Claims 1 and 12 have been amended and Claims 14-17 have been cancelled.

The claims are subject to following rejections, which are addressed in order below:

1. Claims 1 and 12 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement;
2. Claims 1-4, 6, and 9 are rejected under 35 U.S.C. §103(a) as being unpatentable over Pollack (U.S. Pat. No. 4,854,328) and Urbas et al. (U.S. Pat. No. 6,900,721);
3. Claims 11-13 and 19 are rejected under 35 U.S.C. §103(a) as being unpatentable over Pollack (U.S. Pat. No. 4,854,328) and Urbas et al. (U.S. Pat. No. 6,900,721) and further in view of Kennedy;
4. Claims 10-11 are rejected under 35 U.S.C. §103(a) as being unpatentable over Pollack (U.S. Pat. No. 4,854,328) and Urbas et al. (U.S. Pat. No. 6,900,721) and further in view of Kennedy;
5. Claim 8 is rejected under 35 U.S.C. §103(a) as being unpatentable over Pollack (U.S. Pat. No. 4,854,328) and Urbas et al. (U.S. Pat. No. 6,900,721) and further in view of Stafford (U.S. Pat. No. 5,482,008);
6. Claim 7 is rejected under 35 U.S.C. §103(a) as being unpatentable over Pollack (U.S. Pat. No. 4,854,328) and Urbas et al. (U.S. Pat. No. 6,900,721) and further in view of Han (U.S. Pat. No. 6,835,553);
7. Claims 14-17 are rejected under 35 U.S.C. §103(a) as being unpatentable over Pollack (U.S. Pat. No. 4,854,328) and Urbas et al. (U.S. Pat. No. 6,900,721) and further in view of Han (U.S. Pat. No. 6,835,553);
8. Claims 15-17 are rejected under 35 U.S.C. §103(a) as being unpatentable over Pollack (U.S. Pat. No. 4,854,328), Kennedy, and Urbas et al. (U.S. Pat. No. 6,900,721) and further in view of Han (U.S. Pat. No. 6,835,553);

9. Claim 5 is rejected under 35 U.S.C. §103(a) as being unpatentable over Pollack (U.S. Pat. No. 4,854,328) and Urbas et al. (U.S. Pat. No. 6,900,721) and further in view of Hamel (U.S. Pat. No. 6,622,567).

1. Claims 1 and 12 are supported by an adequate written description

Claims 1 and 12 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The Examiner alleges that there is no support for the claim term “operator.” As a preliminary matter, the Examiner is reminded that the Examiner suggested this claim limitation. Support for the limitation clearly exists in the specification as filed, because the specification provides in detail that the signal from the animal identification device can be identified by a farmer in the vicinity of the animal. See Specification at p. 19, 10-20 and p. 20, 11-16 among other places. Thus, the signal is detectable by an operator, i.e., the farmer. The Examiner is respectfully reminded that literal support is not needed for claim limitations. Nevertheless, Applicants have amended the claims to remove the term “by an operator” so that the claims specify the signal is detectable on the outside of the body of the animal. Support for this limitation clearly exists at the cited portions of the specification, and at p. 18, 24-27.

2. Claims 1-4, 6 and 9 are not obvious

Claims 1-4, 6, and 9 are rejected under 35 U.S.C. §103(a) as being unpatentable over Pollack (U.S. Pat. No. 4,854,328) and Urbas et al. (U.S. Pat. No. 6,900,721). A *prima facie* case of obvious requires that the cited references teach or suggest each element of the claim. There is no *prima facie* of obviousness for the instant claims because neither Pollack nor Urbas, alone or in combination, teach an animal identification device and implantable temperature device configured for two-way communication, a database of temperature information for an individual animal, herd and ambient temperature, and a remote temperature sensor, wherein the processor compares temperature information received from said implantable temperature device and said remote temperature sensor with said database of animal, herd, and ambient temperature information wherein the animal identification device receives a signal from a remote

processor and displays a signal on the body of the animal that can be recognized as opposed to a signal produced on a computer screen. Pollack and Urbas lack the claim elements of the remote temperature sensor and the database of temperature information, and in particular do not describe a system or the need to determine ambient temperature along with animal temperature. Accordingly, any *prima facie* case of obviousness has been rebutted and Applicants request withdrawal of this rejection.

3. Claims 11-13 and 19 and not obvious

Claims 11-13 and 19 are rejected under 35 U.S.C. §103(a) as being unpatentable over Pollack (U.S. Pat. No. 4,854,328) and Urbas et al. (U.S. Pat. No. 6,900,721) and further in view of Kennedy. A *prima facie* case of obvious requires that the cited references teach or suggest each element of the claim. There is no *prima facie* of obviousness for the instant claims because Pollack, Urbas, and Kennedy, alone or in combination, do not teach an animal identification device and implantable temperature device configured for two-way communication, a database of animal, herd and ambient temperature information, and a remote temperature sensor, wherein the processor compares temperature information received from said implantable temperature device and said remote temperature sensor with said database of temperature information wherein the animal identification device receives a signal from a remote processor and displays a signal on the body of the animal that can be recognized as opposed to a signal produced on a computer screen.

Pollack, Urbas and Kennedy lack the claim elements of the remote temperature sensor and the database of temperature information. The Examiner argues that it is inherent that the temperature fluctuation/increase is compared with normal cow temperature and that the method steps are met during normal operation of the device. None of the cited references teach or suggests systems using remote temperature sensors to measure herd and ambient temperature nor the need to measure animal, herd and ambient temperature when analyzing the temperature of the animal. Accordingly, any *prima facie* case of obviousness has been rebutted and Applicants request withdrawal of this rejection.

4. Claims 10 and 11 are not obvious

Claims 10-11 are rejected under 35 U.S.C. §103(a) as being unpatentable over Pollack (U.S. Pat. No. 4,854,328) and Urbas et al. (U.S. Pat. No. 6,900,721) and further in view of Kennedy. A *prima facie* case of obvious requires that the cited references teach or suggest each element of the claim. There is no *prima facie* of obviousness for the instant claims because Pollack, Urbas, and Kennedy, alone or in combination, do not teach an animal identification device and implantable temperature device configured for two-way communication, a database of animal, herd and ambient temperature information, and a remote temperature sensor, wherein the processor compares temperature information received from said implantable temperature device and said remote temperature sensor with said database of animal, herd and ambient temperature information wherein the animal identification device receives a signal from a remote processor and displays a signal on the body of the animal that can be recognized as opposed to a signal produced on a computer screen.

Pollack, Urbas and Kennedy lack the claim elements of the remote temperature sensor and the database of temperature information. The Examiner argues that it is inherent that the temperature fluctuation/increase is compared with normal cow temperature and that the method steps are met during normal operation of the device. None of the cited references teach or suggests systems using remote temperature sensors to measure herd and ambient temperature nor the need to measure herd and ambient temperature when analyzing the temperature of the animal. Accordingly, any *prima facie* case of obviousness has been rebutted and Applicants request withdrawal of this rejection.

5. Claim 8 is not obvious

Claim 8 is rejected under 35 U.S.C. §103(a) as being unpatentable over Pollack (U.S. Pat. No. 4,854,328) and Urbas et al. (U.S. Pat. No. 6,900,721) and further in view of Stafford (U.S. Pat. No. 5,482,008). A *prima facie* case of obvious requires that the cited references teach or suggest each element of the claim. There is no *prima facie* of obviousness for the instant claims because Pollack, Urbas, and Stafford, alone or in combination, do not teach an animal identification device and implantable temperature

device configured for two-way communication, a database of animal, herd and ambient temperature information, and a remote temperature sensor, wherein the processor compares temperature information received from said implantable temperature device and said remote temperature sensor with said database of animal, herd and ambient temperature information wherein the animal identification device receives a signal from a remote processor and displays a signal on the body of the animal that can be recognized as opposed to a signal produced on a computer screen. Pollack, Urbas and Stafford lack the claim elements of the remote temperature sensor and the database of animal, herd and ambient temperature information. These references do not teach or suggests systems using remote temperature sensors to measure herd and ambient temperature nor the need to measure animal, herd and ambient temperature when analyzing the temperature of the animal. Accordingly, any *prima facie* case of obviousness has been rebutted and Applicants request withdrawal of this rejection.

6. Claim 7 is not obvious

Claim 7 is rejected under 35 U.S.C. §103(a) as being unpatentable over Pollack (U.S. Pat. No. 4,854,328) and Urbas et al. (U.S. Pat. No. 6,900,721) and further in view of Han (U.S. Pat. No. 6,835,553). A *prima facie* case of obvious requires that the cited references teach or suggest each element of the claim. There is no *prima facie* of obviousness for the instant claims because Pollack, Urbas, and Han, alone or in combination, do not teach an animal identification device and implantable temperature device configured for two-way communication, a database of animal, herd and ambient temperature information, and a remote temperature sensor, wherein the processor compares temperature information received from said implantable temperature device and said remote temperature sensor with said database of animal, herd and ambient temperature information wherein the animal identification device receives a signal from a remote processor and displays a signal on the body of the animal that can be recognized as opposed to a signal produced on a computer screen. Pollack, Urbas and Han lack the claim elements of the remote temperature sensor and the database of animal, herd and ambient temperature information. These references do not teach or suggests systems using remote temperature sensors to measure herd and ambient temperature nor the need

to measure animal, herd and ambient temperature when analyzing the temperature of the animal. Accordingly, any *prima facie* case of obviousness has been rebutted and Applicants request withdrawal of this rejection.

Applicants note that this rejection appears to have been repeated twice in the Office Action, at pages 6 and 7, and only respond to once to the identical rejections.

7. The rejection of claims 14-17 is moot

Claims 14-17 are rejected under 35 U.S.C. §103(a) as being unpatentable over Pollack (U.S. Pat. No. 4,854,328) and Urbas et al. (U.S. Pat. No. 6,900,721) and further in view of Han (U.S. Pat. No. 6,835,553). This rejection is moot as the claims have been cancelled.

8. The rejection of claims 15-17 is moot

Claims 15-17 are rejected under 35 U.S.C. §103(a) as being unpatentable over Pollack (U.S. Pat. No. 4,854,328), Kennedy, and Urbas et al. (U.S. Pat. No. 6,900,721) and further in view of Han (U.S. Pat. No. 6,835,553). This rejection is moot as the claims have been cancelled.

9. Claim 5 is not obvious

Claim 5 is rejected under 35 U.S.C. §103(a) as being unpatentable over Pollack (U.S. Pat. No. 4,854,328) and Urbas et al. (U.S. Pat. No. 6,900,721) and further in view of Hamel (U.S. Pat. No. 6,622,567). A *prima facie* case of obvious requires that the cited references teach or suggest each element of the claim. There is no *prima facie* of obviousness for the instant claims because Pollack, Urbas, and Hamel, alone or in combination, do not teach an animal identification device and implantable temperature device configured for two-way communication, a database of temperature information, and a remote temperature sensor, wherein the processor compares temperature information received from said implantable temperature device and said remote temperature sensor with said database of temperature information wherein the animal identification device receives a signal from a remote processor and displays a signal on the body of the animal that can be recognized as opposed to a signal produced on a computer screen. Pollack, Urbas and Hamel lack the claim elements of the remote temperature sensor and the database of animal, herd and ambient temperature

information. These references do not teach or suggests systems using remote temperature sensors to measure herd and ambient temperature nor the need to measure animal, herd and ambient temperature when analyzing the temperature of the animal. Accordingly, any *prima facie* case of obviousness has been rebutted and Applicants request withdrawal of this rejection.

III. CONCLUSION

All grounds of rejection of the Office Action of July 11, 2007, have been addressed and reconsideration of the application is respectfully requested. It is respectfully submitted that Applicant's claims should be passed into allowance. Should the Examiner believe that a telephone interview would aid in the prosecution of this application Applicant encourages the Examiner to call the undersigned collect at (608) 218-6900.

Dated: September 11, 2007

/J. Mitchell Jones/

J. Mitchell Jones
Registration No. 44,174

CASIMIR JONES, S.C.
101 Howard Street, Suite 350
San Francisco, California 94105
608.218.6900